UNITED CHINESE TRANSPORT CO.

v.

SIA BOON HENG

HIGH COURT MALAYA, MUAR
MOHD. YUSOF ABDUL RASHID J
[ORIGINATING MOTION NO. 12 OF 1980]
28 JANUARY 1981

LABOUR LAW: *Employment - Employee informed by chief clerk to stop work and not to return for work - Employee failed to report for work - Breach of contract under s. 15 Employment Ordinance 1955 - Services terminated by chief clerk - If authority implied - Section 69 Employment Ordinance.*

On 15 March 1980 at 11 a.m. the respondent refused to obey the instruction of the Chief clerk to load oil palm fruits as he was not well. The respondent contended that the Chief clerk shouted at him and told him to stop work and not to come back to work any more which was denied by the Chief clerk. The company's manager gave evidence that all the Chief clerk said was that if the respondent did not want to work he might as well stop work.

The respondent complained to the Penolong Pengarah Hal Ehwal Buruh Muar who conducted an inquiry and found that the respondent had been dismissed without one (1) month's notice of termination and ordered the appellant to pay the sum of $376.58 being the respondent's average one month's earnings to the respondent.

The appellant appealed against the decision on the ground that the Pengarah had failed to give sufficient consideration to the evidence that the respondent had not been dismissed as the Chief clerk had no authority to dismiss and it was the respondent who had refused to obey a lawful instruction and failed to report for work without excuse for more than two days.

Held:

[1] The Pengarah was charged with findings of fact and unless it can be shown that the evidence was so much one way that no reasonable tribunal could have disregarded it, it is not possible to interfere with his findings of fact.

[2] The Pengarah had given due consideration to all the evidence and had found that the Chief clerk having held the position for 20 years had sufficient implied authority to dismiss the respondent and had exercised such implied authority in this case.

[3] Under the circumstances, the appellant had failed to disprove that the services of the respondent had been terminated without notice and that the decision of the Pengarah was contrary to law and/or against the weight of evidence and hence the appeal was dismissed with costs.

[Appeal dismissed with costs.]

For the appellant - M/s. Ong Chee Seong & Associates

(Digest Form Only)

Also found at [1981] 1 CLJ 90